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14 \* *Pro Hac Vice* Application To Be Filed

15 Attorneys for Plaintiff

16 UNITED STATES DISTRICT COURT

17 CENTRAL DISTRICT OF CALIFORNIA

18 PRISON LEGAL NEWS, a project of the  
HUMAN RIGHTS DEFENSE CENTER,

19 Plaintiffs,

20 v.

21 COUNTY OF VENTURA; GEOFF DEAN,  
22 GARY PENTIS, LINDA OKSNER, and  
23 RICK BARRIOS, in their individual and  
official capacities, DOES 1-10, in their  
individual and official capacities,

24 Defendants.  
25  
26  
27  
28

Case No. cv-14-0773-GHK (EX)

**DECLARATION OF PAUL  
WRIGHT IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

Date: March 17, 2014  
Time: 9:30 a.m.  
Dept.: 650  
Judge: Hon. George H. King

1 I, Paul Wright, declare:

2 1. I have personal knowledge of the matters set forth herein, and if called  
3 as a witness, I could and would competently so testify. I make this declaration in  
4 support of Plaintiff's Motion for Preliminary Injunction.

5 2. I am the founder and editor of Prison Legal News ("PLN"), a project of  
6 the Human Rights Defense Center ("HRDC"). HRDC is a non-profit, IRS section  
7 501(c)(3) corporation located in Florida. The core of our mission is public  
8 education, advocacy and outreach on behalf of, and for the purpose of assisting,  
9 prisoners who seek legal redress for infringements of their constitutional and human  
10 rights.

11 3. I have received numerous awards for my work with HRDC and PLN,  
12 including the Petra Foundation Award in 2005, the Washington Coalition for Open  
13 Government's James Madison Award in 2007, the National Lawyers Guild's Arthur  
14 Kinoy Award in 2008, and the City University of New York Law School's  
15 Distinguished Public Service Award in 2011. In 2013 I accepted the First  
16 Amendment Award from the Society of Professional Journalists on behalf of HRDC  
17 for our work with PLN.

18 4. HRDC and PLN publish a 64-page monthly journal entitled *Prison*  
19 *Legal News*. This journal provides information about legal issues, including access  
20 to courts, disciplinary hearings, prison conditions, excessive force, mail censorship,  
21 prison and jail litigation, visitation, telephones, religious freedom, prison rape, and  
22 the death penalty. A true and correct copy of the March 2012 issue of *Prison Legal*  
23 *News* (one of the issues that was censored in this case) is attached hereto as  
24 **Exhibit A**.

25 5. HRDC is also a book distributor, specializing in books and materials  
26 regarding prisoners' rights and issues related to the criminal justice and corrections  
27 systems. HRDC distributes approximately 45 legal and self-help books, some  
28 published by HRDC and some by other publishers. These books foster in readers a

1 better understanding of criminal justice policies, and allow prisoners to educate  
2 themselves about related issues, such as legal research, writing business-related  
3 letters, health care, and similar topics.

4         6.       *Prison Legal News* has been continuously published since 1990 and  
5 HRDC has distributed over one million copies in total. Currently, *Prison Legal*  
6 *News* has approximately 9,000 subscribers in the United States and abroad,  
7 including prisoners, attorneys, journalists, libraries, judges, and the general public.  
8 *Prison Legal News* is distributed to prisoners in approximately 2,200 correctional  
9 facilities across the United States, including institutions within the Federal Bureau  
10 of Prisons and prisons within the correctional systems of all 50 states. *Prison Legal*  
11 *News* also is distributed to hundreds of prisoners housed in the 33 adult facilities run  
12 by the California Department of Corrections and Rehabilitation, as well as to  
13 prisoners housed in death row units and “supermax” prisons, including the federal  
14 Administrative Maximum Facility (“ADX” or “Supermax”) at Florence, Colorado,  
15 the most secure prison in the United States.

16         7.       For each of its subscribers, PLN sends an issue of *Prison Legal News*  
17 each month. When a subscription period is coming to an end, PLN sends a letter to  
18 the subscriber notifying him or her that the subscription is ending and giving that  
19 person information about the opportunity to renew. PLN also sends these letters  
20 when a free trial subscription is ending.

21         8.       In addition to its monthly journal, PLN sends prisoners an  
22 “Informational Brochure Packet,” which includes three items: (1) a *Prison Legal*  
23 *News* Brochure and Subscription Order Form; (2) a Prison Legal News Book List;  
24 and (3) a Published Books Brochure. These brochures are sent directly to  
25 individually-named inmates, some requesting PLN publications and others  
26 identified by PLN as potential subscribers.

27         9.       PLN also periodically sends prisoners copies of case law printed from  
28 the Internet, to inform them of recent legal developments impacting their personal

1 rights and freedoms. For example, PLN sent prisoners copies of *Clement v.*  
2 *California Department of Corrections, et al.*, 364 F.3d 1148 (9th Cir. 2004) and  
3 *Prison Legal News v. Lehman*, 397 F.3d 692 (9th Cir. 2005), which speak to  
4 prisoners' right to receive and publishers' right to send Internet-based mail and non-  
5 subscription bulk mail and catalogs, respectively.

6 10. Sending publications and correspondence through the mail to prisoners  
7 is essential to accomplishing the mission of PLN and HRDC. The primary aim is to  
8 communicate with incarcerated persons about developments in the law and  
9 protection of one's health and personal safety while in prison or jail. Prison Legal  
10 News relies on its ability to send publications through the mail to communicate with  
11 prisoners, and cannot communicate with prisoners without use of the mail.

12 11. Each issue of *Prison Legal News* covers recent events and judicial  
13 decisions that affect prisoners' lives and legal cases. Therefore, the ability to deliver  
14 issues of *Prison Legal News* quickly – before the news becomes stale, or prisoners'  
15 deadlines for court filings expire – is critical to our mission. If we are not able to  
16 deliver issues to a prisoner on a timely basis, we lose a precious opportunity to help  
17 that prisoner. In addition, many prisoners move in and out of correctional facilities  
18 quickly, and if we lose the opportunity to communicate with the prisoner for some  
19 period of time, we may not be able to locate that prisoner again to provide him or  
20 her with assistance.

21 12. To better reach incarcerated individuals with correspondence and  
22 publications, I have developed substantial expertise regarding the mail and  
23 correspondence policies of correctional facilities across the country. Since  
24 publication began twenty-four years ago, I have carefully monitored all instances in  
25 which a jail or prison refused to deliver *Prison Legal News*. We also track the mail  
26 and correspondence policies of federal, state, and local correctional facilities to  
27 ensure that these policies do not prevent us from achieving our mission. Our  
28 monitoring efforts include reviewing all physical evidence of publications returned

1 to us by correctional facilities, as well as regularly communicating with correctional  
2 facilities to ascertain their policies and reasons for rejection of publications and  
3 other correspondence.

4 13. PLN has challenged the censorship policies of a number of jail and  
5 prison facilities through litigation. As a result of those experiences, I have become  
6 very familiar with the policies and practices of mailrooms in a number of  
7 correctional facilities. It is my experience that correctional facilities often use  
8 restrictive mail policies to try to reduce staffing needs for the mailroom, or as a  
9 pretext to keep out publications and correspondence that administrators do not want  
10 to distribute to prisoners. In my experience, correctional administrators prefer not to  
11 deliver *Prison Legal News* to prisoners in their custody because the publication  
12 provides prisoners with information about their legal and human rights, and how to  
13 exercise those rights using the judicial system.

14 14. We have also challenged postcard-only policies in other jurisdictions.  
15 For example, in *Prison Legal News v. Columbia County*, Case No 3:12-cv-00071-SI  
16 (D. Or.), the U.S. District Court for the District of Oregon found that the Columbia  
17 County Jail's postcard-only policy violated the First Amendment and issued a  
18 preliminary injunction and later a permanent injunction that enjoined the county  
19 from restricting all incoming and outgoing personal mail to postcards only.  
20 Attached as **Exhibit B** is April 24, 2013 order in that case issuing the permanent  
21 injunction, where the court found that there was no rational connection between the  
22 Jail's policy and security, because Jail security could be achieved by inspecting the  
23 mail that comes in through envelopes. *See Exhibit B* at 22-23.

24 15. Similarly, in August 2011, the U.S. District Court for the Eastern  
25 District of Washington approved a Consent Decree finding that Spokane County did  
26 not articulate a legitimate penological interest for their mail policies restricting  
27 incoming mail to postcard form. Attached as **Exhibit C** is a true and correct copy of  
28 the consent decree in that case, Case No. CV-11-029-RHW, where the District

1 Court enjoined defendants from rejecting mail “on the ground that it is contained in  
2 an envelope rather than in postcard form.” *See* Exhibit C at 8.

3 16. PLN also obtained a Consent Injunction against the Sheriff of Berkeley  
4 County, South Carolina, following a lawsuit in which the United States Department  
5 of Justice intervened on our behalf. *See Prison Legal News v. DeWitt et al.*, No. 10-  
6 cv-02594 (D. S.C.). Attached as **Exhibit D** is a true and correct copy of the  
7 January 13, 2012 Consent Decree in that case. The consent decree expressly stated  
8 that *Prison Legal News* is a “permissible publication[]” despite the presence of  
9 “suggestive” advertisements. *See* Exhibit C at 3.

10 17. Courts have also granted preliminary injunctions against Defendants in  
11 similar situations. For example, on March 8, 2012, the district court for the Eastern  
12 District of California granted a preliminary injunction regarding Sacramento  
13 County’s unconstitutional mail policies and failure to deliver PLN publications to  
14 inmates in *Prison Legal News v. County of Sacramento*, Case No. 2:11-cv-00907  
15 JAM-DAD. Attached as **Exhibit E** is a true and correct copy of the Court’s Order.  
16 Similarly, on February 4, 2008, the district court for the Northern District of Georgia  
17 granted PLN’s motion for preliminary injunction in *Prison Legal News v. Freeman*,  
18 Case No 1:07-CV-2618-CAP (N.D. Ga.). In that case, the Fulton County Jail was  
19 preliminarily enjoined from continuing to violate PLN’s rights, despite the Jail’s  
20 implementation of a new mail policy after the lawsuit in the case was filed.  
21 Attached as **Exhibit F** is a true and correct copy of the Court’s Order.

22 18. PLN has been sending publications and correspondence to detainees in  
23 custody in Ventura County (the “County”) for many years. There have been no  
24 substantial changes in the advertising content contained in *Prison Legal News* since  
25 at least 1996. Informational brochure packets have only been altered to include new  
26 or different publications for sale, though the general content of these publications  
27 has remained constant. PLN also has been sending copies of current legal decisions  
28 to inmates since its inception and without incident. In all of the years of



1 correspondence with prisoners housed in Ventura County jail facilities, we have  
 2 never received any notification that correspondence or publications were causing  
 3 security problems.

4 19. Starting in approximately February 2012, we began receiving items we  
 5 had mailed to prisoners in Ventura County's jails returned to us through the United  
 6 States Postal Service's "Return to Sender" process. PLN is aware of at least 148  
 7 items of correspondence being censored by Ventura County between February 2012  
 8 and the present, described further below. PLN has never been provided any  
 9 opportunity to appeal the County's refusal to deliver its publications and  
 10 correspondence.

11 20. In approximately six hundred other instances since February 2012, we  
 12 have sent publications and correspondence to prisoners in custody of Ventura  
 13 County, but do not know whether these items were delivered or rejected. We  
 14 believe some of these items were likely rejected, because our experience is that  
 15 when we receive some items returned to sender from a detention facility, there also  
 16 are many more items that are neither delivered to prisoners at that facility nor  
 17 returned to our offices. We also have learned about additional rejections because  
 18 inmates have written to PLN to inform us that they had not received their *Prison*  
 19 *Legal News* subscriptions. For example, in June 2012, an inmate wrote to us stating  
 20 that he had not received any issues of *Prison Legal News* during his six-month  
 21 subscription to the periodical publication, but we had only received one issue  
 22 returned to us.

23 ***Prison Legal News* Censored for "Suggestive" Advertisements or Images**

24 21. At least 33 copies of *Prison Legal News* sent to inmates in Ventura  
 25 County jails have been returned to us. These materials were returned with a  
 26 notation on the front – ink stamped or on an adhesive label – stating "Contents  
 27 Unacceptable" due to "Suggestive Items," "Suggestive Ads Inside," or "Suggestive  
 28 Images & Ads." True and correct copies of such returned publications are attached

1 hereto as **Exhibit G**.

2 **Subscription Renewal Letters Rejected**

3 22. Since February 2012, at least 19 subscription renewal letters that we  
4 sent to inmates at the Jail have been returned to us. Some of these items are  
5 returned with the notation "postcards only." Another was returned with the notation  
6 that "inmate cannot order subscriptions from jail." True and correct copies of such  
7 correspondence are attached hereto as **Exhibit H**. We have sent at least 25 other  
8 subscription renewal letters which I presume were rejected under the postcard-only  
9 policy, but where we did not receive the item returned to sender.

10 **Informational Brochure Packets Rejected**

11 23. Since February 2012, at least 47 copies of our Informational Brochure  
12 Packets sent to inmates at the Jail have been returned to us, and in 3 instances  
13 prisoners wrote and told us they didn't receive the informational brochures. Some  
14 of these items have been returned with the notation "postcards only." In other  
15 instances, Informational Brochure Packets were returned with labels reading:  
16 "Inmates Cannot Order Subscriptions From Jail," "Inmates Cannot Order Anything  
17 From Jail," or "Inmates May Not Order Any Billable Items from Jail (i.e., Magazine  
18 Subscriptions, Books)." True and correct copies of such returned correspondence  
19 are attached hereto as **Exhibit I**. We have sent at least 17 other informational  
20 brochure packs which I presume were rejected, but where we did not receive the  
21 item returned to sender. No more than 11 brochures were ever sent to inmates  
22 within Defendants' jail facilities during any month.

23 **Copies of Case Law Rejected**

24 24. Since February 2012, Defendants have also returned at least 46  
25 printouts of case law PLN sent to prisoners at the Jail. These materials have been  
26 returned with a variety of explanations, including "postcards only," and "Content  
27 Unacceptable / Not a 'Prison Legal News' Publication, No Enveloped Personal  
28 Correspondence." Others were rejected with the notation that "Per Legal Dept:



1 Xeroxed copies from books are not allowed. Must be original material” or “Per  
 2 Legal Dept: Xeroxed copies from books or internet are not allowed. Must be the  
 3 Original materials.” True and correct copies of such returned correspondence are  
 4 attached hereto as **Exhibit J**. We have also sent copies of case law to at least 19  
 5 other prisoners which I presume were rejected, but where we did not receive the  
 6 item returned to sender.

#### 7 **Articles from Our Web Site Rejected**

8 25. Occasionally individuals print out copies of articles from the PLN web  
 9 site and mail them to prisoners. In February 2013, PLN received copies of articles  
 10 that had been printed out from the PLN web site and sent by a third party to  
 11 prisoners at the Jail. These materials had not been delivered to inmates but had been  
 12 returned to the third party with the notation “Return to Sender: Postcards Only – No  
 13 Envelopes.” True and correct copies of examples of such returned correspondence  
 14 are attached hereto as **Exhibit K**.

15 26. Over the past twenty plus years, we have distributed over one million  
 16 copies of *Prison Legal News*, thousands of brochure packets, and thousands of  
 17 copies of legal decisions. While some of these were sent to subscribers in the free  
 18 world, the vast majority of these copies were delivered to incarcerated persons. I  
 19 have never heard of any of these items interfering with a correctional facility’s  
 20 penological interests. In particular, I have never heard of any security incidents  
 21 caused by advertisements contained within *Prison Legal News*, by our informational  
 22 brochure packets, subscription renewal letters, or copies of case law. Furthermore,  
 23 prior to the incidents described herein, we regularly delivered copies of *Prison*  
 24 *Legal News* and other correspondence to prisoners in Ventura County jails and never  
 25 had any problems.

26 27. Like many other magazines sent by mail (such as *Time*, *Newsweek*,  
 27 *People*, *The Economist*, and *U.S. News & World Report*), *Prison Legal News*  
 28 supports itself in part through advertisements, and occasionally includes

1 advertisements that may be considered by some to be “suggestive” or sexualized,  
2 though including no nudity. Most advertisements contain no pictures, and in the  
3 few instances in which pictures may be found, the pictures are barely visible; each is  
4 less than one square inch, there is no nudity, and even clothed depictions of breasts,  
5 buttocks, or the groin area often are covered by a white star. Without  
6 advertisements, it would be difficult to publish our monthly journal.

7 28. I have reviewed the information listed on the Ventura County Sheriff  
8 Office’s website (a true and correct copy of which is attached as **Exhibit L**,  
9 available at <http://www.vcsd.org/inmate-faq.php#5>), which states that “postcards  
10 [are] the only acceptable form of incoming mail for inmates in custody at all  
11 Ventura County Sheriff’s Office jail facilities.” It also states that postcards  
12 depicting “nudity, obscenities, suggestive images, or other offensive materials” will  
13 be returned to the sender or placed directly into an inmate’s property.

14 29. Our organization regularly receives correspondence from prisoners  
15 expressing how important it is to them to receive PLN publications and  
16 correspondence. For example, attached as **Exhibit M** is a true and correct copy of  
17 such a letter from a prisoner in custody in Ventura County. Inmates have also  
18 complained to our organization that people have stopped writing them under  
19 postcard-only policies due to a lack of privacy. Attached as **Exhibit N** is a true and  
20 correct copy providing an example of such correspondence from an inmate in Jail in  
21 Ventura County.

22 30. Our organization operates with very limited resources and on a very  
23 tight budget. At present, we have approximately twelve employees. As a charitable  
24 organization with virtually no financial resources, we would likely be unable to post  
25 a bond, except a bond in a nominal amount.

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1 I declare under penalty of perjury under the laws of the United States and the  
2 State of California that the foregoing is true and correct, and that this declaration is  
3 executed at White River Junction, Vermont this 4th day of February, 2014.

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6 Paul Wright  
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